

NINTH JUDICIAL DISTRICT  
COUNTY OF CURRY  
STATE OF NEW MEXICO

NEW MEXICO SCHOOL  
SUPERINTENDENTS  
ASSOCIATION, et al;

*Plaintiffs/Petitioners,*

v.

CAUSE NO.: D-905-CV-2024-167

NEW MEXICO PUBLIC EDUCATION  
DEPARTMENT and ARSENIO  
ROMERO, Individually and in his official  
capacity as SECRETARY of the  
NEW MEXICO PUBLIC EDUCATION  
DEPARTMENT

*Defendants/Respondents.*

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## TEMPORARY RESTRAINING ORDER

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**THIS MATTER** came before the Court on Plaintiffs' Original Verified Complaint and Application for Temporary Restraining Order and Injunctive Relief. The Court having reviewed the pleadings and otherwise fully advised in the premises, **FINDS** that Plaintiffs' Verified Application for Temporary Restraining Order is **GRANTED** as follows:

1. The Court has jurisdiction over the parties and the subject matter.
2. On or about March 26, 2024, Defendants adopted new administrative Rule 6.10.5 NMAC, School Instruction Time Requirements, with an effective date of July 1, 2024 ("New Rule 6.10.5 NMAC"). Based upon information provided by Plaintiffs, Defendants have implemented New Rule 6.10.5 NMAC and are requiring Plaintiffs to

comply with the mandates of New Rule 6.10.5 NMAC prior to the effective date of the Rule.

3. Based upon the sworn allegations of Plaintiffs, Plaintiffs will suffer imminent and irreparable injury, loss, or damage unless the Court grants this Temporary Restraining Order preserving the status quo and prohibiting Defendants from implementing or enforcing New Rule 6.10.5 NMAC, or taking any action that conflicts with the existing statutes under Public School Code, Chapter 22, Article 2, NMSA 1978, until a hearing can be held.

4. Plaintiffs have met their burden that:

- a. Plaintiffs will suffer irreparable injury unless this Temporary Restraining Order is issued;
- b. the threatened harm to Plaintiffs outweighs any potential harm this Temporary Restraining Order might cause Defendants;
- c. the issuance of this Temporary Restraining Order will not adversely affect the public's interest; and
- d. there is a substantial likelihood Plaintiffs will prevail on the merits.

5. A Temporary Restraining Order should be granted without hearing and this matter should be set for a hearing within ten (10) days pursuant to NMRA 1-066.

6. The information provided by Plaintiffs in Plaintiffs' Original Verified Complaint and Application for Temporary Restraining Order and Injunctive Relief, as well as the Verification Certifying Compliance with Rule 1-066(B)(2) NMRA of Plaintiffs' attorney, alleges that immediate and irreparable injury, loss, or damage will result to Plaintiffs before Defendants can be heard in opposition. Counsel for Defendant PED was

present for the status hearing on May 2, 2024 and knows of this proceeding and of Plaintiffs' request for a Temporary Restraining Order.

7. Pursuant to Rule 1-066(B) NMRA, advance formal notice need not be given to Defendants in advance of issuance of this Order because of the allegations of immediate and irreparable harm that will result to Plaintiffs if the issuance of this Temporary Restraining Order were delayed.

8. It is alleged by Plaintiffs that Defendants have implemented New Rule 6.10.5 NMAC in advance of its effective date and are unlawfully forcing Plaintiffs to immediately comply with New Rule 6.10.5 NMAC's requirements and submit operating budgets and school calendars complying with the new 180-day mandate prior to the effective date of the Rule.

9. There is imminent and irreparable harm that will occur to Plaintiffs if the Court were not to issue this Temporary Restraining Order. The harm would be a detriment to Plaintiffs as well as their students, families and staff.

10. Pursuant to Rule 1-066(C) NMRA, the Court finds good cause has been shown to waive the furnishing of security as set forth in Plaintiffs' Original Verified Complaint and Application for Temporary Restraining Order and Injunctive Relief and, therefore, this Restraining Order shall issue without the giving of security or posting of an injunction bond by Plaintiffs.

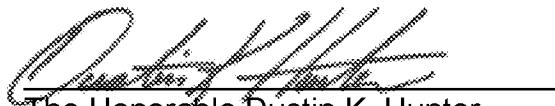
11. Good grounds exist to show that a preliminary injunction may be needed in this case.

**IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that:**

- A. Defendants are restrained and enjoined from implementing or enforcing New Rule 6.10.5 NMAC;
- B. Defendants are prohibited from taking any action that conflicts with the existing statutes under Public School Code, Chapter 22, Article 2, NMSA 1978, as amended;
- C. Defendants are restrained and enjoined from requiring Plaintiffs, to submit operating budgets and school calendars complying with the new 180-day requirement of New Rule 6.10.5 NMAC;
- D. Plaintiffs shall immediately serve Defendants with the Summons, Original Verified Complaint and Application for Temporary Restraining Order and Injunctive Relief, a copy of all pleadings, and a copy of this Order no later than five (5) days before the hearing set herein. Plaintiffs must provide proof that Defendants have received service of the paperwork as directed not less than two (2) days prior to the hearing date;
- E. Plaintiffs and Defendants are hereby notified that they are to appear before this Court on May 13, 2024 at 1:30 PM before the Honorable Dustin K. Hunter, District Court Judge, Div. X, sitting by special designation by Supreme Court Order;
- F. The hearing will be conducted in-person, but the Court will consider request by any party to attend the hearing electronically;
- G. The purpose of the hearing will be for Defendants to show cause, if they have any, as to why this Temporary Restraining Order should not continue as a preliminary

injunction pending final determination of the merits of this cause, and to discuss and set scheduling; and

H. Logistical questions about the hearing may be directed to the Court through the Court's TCAA.



The Honorable Dustin K. Hunter  
District Court Judge  
Div. X

C: Parties and counsel of record